



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0106; FRL-9527-01-R9]

Air Plan Approval; Nevada; Clark County Department of Environment and Sustainability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Clark County Department of Environment and Sustainability (DES) portion of the Nevada State Implementation Plan (SIP). These revisions concern the title change of the Clark County Department of Air Quality to the Department of Environment and Sustainability.

DATES: These rules will be effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2022-0106. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4125 or by email at

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On February 22, 2022 (87 FR 9475), the EPA proposed to approve the following rules into the Nevada SIP.

Local Agency	Rule #	Rule Title	Amended	Submitted
DES	Section 2	Procedures for Adoption and Revision of Regulations and for Inclusion of those Regulations in the State Implementation Plan	1/21/20	3/16/20
DES	Section 33	Chlorine in Chemical Processes	1/21/20	3/16/20
DES	Section 41	Fugitive Dust	1/21/20	3/16/20
DES	Section 53	Oxygenated Gasoline Program	1/21/20	3/16/20
DES	Section 90	Fugitive Dust from Open Areas and Vacant Lots	1/21/20	3/16/20
DES	Section 93	Fugitive Dust from Paved Roads and Street Sweeping Equipment	1/21/20	3/16/20
DES	Section 94	Permitting and Dust Control for Construction Activities	1/21/20	3/16/20

We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no adverse comments. We received one comment that did not object to the

proposed action but expressed concerns about regional haze and air quality in Clark County. We do not consider the comment to be relevant to the specifics of this action and therefore we will not be responding to it.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the Nevada SIP. The January 21, 2020 version of Rules 2, 33, 41, 53, 90, 93, and 94 will replace the previously approved version of these rules in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the DES rules listed in Section I of this preamble and set forth below in the amendments to 40 CFR part 52. These DES rules concern the title change of the Clark County Department of Air Quality to the Department of Environment and Sustainability. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹ The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices,

¹ 62 FR 27968 (May 22, 1997).

provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other

area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter], Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: **May 11, 2022.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart DD – Nevada

2. In § 52.1470, in paragraph (c). amend Table 3 by

a. Adding an entry for “Section 2” after the entry for “Section 2: Subsections 2.1, 2.2, and 2.3”

and;

b. Revising the entries for “Section 33,” “Section 41,” “Section 53,” “Section 90,” “Section 93,” and “Section 94”.”.

The additions and revisions read as follows:

§52.1470 Identification of plan.

* * * * *

(c) * * *

Table 3 – EPA-Approved Clark County Regulations

County citation	Title/Subject	County effective date	EPA Approval date	Additional explanation

Section 2	Procedures for Adoption and Revision of Regulations and for Inclusion of those Regulations in the State Implementation Plan	1/21/20	[INSERT Federal Register CITATION], [INSERT DATE OF PUBLICATION]	Submitted on March 16, 2020 as an attachment to a letter dated March 13, 2020

Section 33	Chlorine in Chemical Processes	1/21/20	[INSERT Federal Register CITATION], [INSERT DATE OF PUBLICATION]	Submitted on March 16, 2020 as an attachment to a letter dated March 13, 2020. See also clarification at 69 FR 54006 (9/7/04).
Section 41	Fugitive Dust	1/21/20	[INSERT Federal Register CITATION],	Submitted on March 16, 2020 as an attachment to a

			[INSERT DATE OF PUBLICATION]	letter dated March 13, 2020

Section 53	Oxygenated Gasoline Program	1/21/20	[INSERT Federal Register CITATION], [INSERT DATE OF PUBLICATION]	Submitted on March 16, 2020 as an attachment to a letter dated March 13, 2020

Section 90	Fugitive Dust from Open Areas and Vacant Lots	1/21/20	[INSERT Federal Register CITATION], [INSERT DATE OF PUBLICATION]	Submitted on March 16, 2020 as an attachment to a letter dated March 13, 2020

Section 93	Fugitive Dust from Paved Roads & Street Sweeping Equipment	1/21/20	[INSERT Federal Register CITATION], [INSERT DATE OF PUBLICATION]	Submitted on March 16, 2020 as an attachment to a letter dated March 13, 2020
Section 94	Permitting & Dust Control for Construction Activities	1/21/20	[INSERT Federal Register CITATION], [INSERT DATE OF PUBLICATION]	Submitted on March 16, 2020 as an attachment to a letter dated March 13, 2020

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[FR Doc. 2022-10550 Filed: 5/18/2022 8:45 am; Publication Date: 5/19/2022]